Writ Petition no.22626 of 1996-old number
Writ Petition no. 3763(S/S) of 2001-new number

Bagh Singh and others -------- Petitioners

Versus

State of U.P. and others ….. Respondents

Hon'ble M.M. Ghildiyal J.

By means of this petition the petitioners have challenged the orders dated 19.08.1994, 1.06.1996,20.06. 1996 and 18.05.1996 passed by the respondents no.1,3,and 4 respectively contained in annexures 8,10,11 and 12 to the writ petition.

Heard Sri B.D. Upadhyaya learned counsel for the petitioners and learned Standing Counsel.

The petitioners were appointed on the post of laboratory attendants by the Deputy Director,, Horticulture and Food Processing(Hills) Ranikhet district Almora. All the petitioners except petitioners no.11 and 12 are working since then on the posts of Laboratory attendants.

The State of Uttar Pradesh vide order dated 03.06.1989 revised the pay scales and consequently the pay scale of the petitioners which was earlier of Rs.305-390 was revised as Rs.750-940.

Paragraph no.10 of the aforesaid government order dated 03.06.1989 provides that an employee who has completed six years satisfactory service in the selection grade shall be given next promotion pay scale and if the posts for which there is no post of promotion shall be given the next pay scale provided that they have completed six years satisfactory service in selection grade. The next promotional post of the laboratory attendant is the laboratory assistant the pay scale of which is Rs. 950-1500.

Since the petitioners have completed more than 25 years of service as laboratory attendants including six years service in the selection grade could not be promoted to the posts of laboratory assistants because of non-availability of posts the petitioners were given next promotional pay scale of Rs.950-1500 in view of paragraph no.10 of the aforesaid government order dated 3.6.1989. However, the respondent no.1 vide order dated 19.8.1994 passed an order that the employee who has completed six years satisfactory

service in the selection grade shall be paid the next higher pay scale and not the promotional pay scale. A representation was made by the petitioners stating that the laboratory attendants were being promoted on the posts of laboratory assistants in the pay scale of Rs.950-1500 and in between there is no post on which the petitioners could be promoted and as such per paragraph no.10 of the aforesaid government order dated 3.6.1989 the petitioners are entitled for the pay scale of Rs.950-1500. The respondent no.3 Deputy Director in pursuant to the order passed by the government dated 19.8.1994 fixed the pay of the petitioners in the pay scale of Rs. 775-1025 vide order dated 1.6.1996, 20.6.1996 and 18.5.1996. Aggrieved with these orders the petitioners have filed this writ petition.

Learned Standing Counsel has submitted that the petitioners have been fixed in the next higher pay scale as per government order dated 19.08.1994.

Learned counsel for the petitioners has submitted that paragraph no.10 of the government order dated 3.6.1989 categorically states about two types of posts, one where there is no post of promotion. In that case the employee will be given the next higher pay scale after completing six years satisfactory service in the selection grade. Second category is that where the posts are available the employees can be given next promotional pay scale after completing six years satisfactory service in the selection grade. The petitioners were appointed as laboratory attendants in the pay scale of 750-940 and the pay scale of laboratory assistant is Rs. 950-1500. In between these two pay scales there are three pay scales, such as, 775-1025,825-1200 and 950-1400. As per paragraph of government order dated 03.06.1989 in case any person who is appointed on the post to which there is no promotion and is appointed in the pay scale of Rs.750-940 he shall be paid next higher pay scale which is Rs.750-1050 after completing six years satisfactory service in the selection grade but since the petitioners who were appointed as laboratory attendants and they could not promoted on the post of laboratory assistants because of non-availability of posts, the laboratory attendants who have completed six years service in the selection grade shall be paid the promotional pay scale of Rs.950-1500 which is provided to the laboratory assistants.

The learned counsel for the petitioners has further submitted that the government order dated December 2, 2000 has clarified the promotional pay scales as the pay scale which is prescribed for the promotional posts.

For the reasons stated above the writ petition is allowed. The impugned orders dated 19.08.1994, 1.6.1996, 20.6.1996 and 18.5.1996 passed by the respondents no.1, 3 and 4 contained in annexures 8,10,11 and 12 to the writ petition are quashed. No order as to costs.

(M.M. Ghildiyal, J.)

July 22, 2003
MPS